

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

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FACT SHEET

President Reagan has today signed a Memorandum to the heads of executive departments and agencies directing, to the extent permitted by law, a revision of the current policy with respect to rights in inventions made during performance of Government research and development contracts, grants or cooperative agreements. This Memorandum directs the agencies to adopt and implement the same or substantially the same policies for all R&D contractors as those set forth in Public Law 96-517 (Chapter 38 of Title 35 of the United States Code) for small businesses and nonprofit organizations. It is intended to achieve more uniform and effective Government-wide policies.

Inventions developed under Government support constitute a valuable national resource. With appropriate incentives, many of these inventions will be further developed commercially by the private sector. The new products and processes that result will improve the productivity of the U.S. economy, create new jobs, and improve the position of the U.S. in world trade. The policy established by the Memorandum is designed to provide such incentives.

Experience has shown that, in most instances, allowing inventing organizations to retain title to inventions made with Federal support is the best incentive to obtain the risk capital necessary to develop technological innovations. The new policy provides that, with limited exceptions, the inventing organizations may retain title to the invention, subject to license rights in the Government which will enable the Government to use the invention in its own programs. The Government will also normally retain the right to "march-in" and require licensing when the inventing organization fails to pursue development of the invention. In addition, the Department of Justice will develop an appropriate safeguard against anticompetitive retentions of title by organizations not subject to Public Law 96-517.

To the extent permitted by law, this Memorandum is applicable to all statutory programs including those that provide that inventions be made available to the public. Those agencies, such as National Aeronautics and Space Administration and the Department of Energy, which continue to operate under statutes which are inconsistent in respects with the Memorandum, are expected to make maximum use of the flexibility available to them to comply with the provisions and spirit of the Memorandum.

In order to promote uniformity, President Reagan has also asked the Director of the Office of Science and Technology Policy through the Federal Coordinating Council for Science, Engineering and Technology to evaluate the effectiveness of the implementation of the Memorandum and make recommendations for revision or modification of the Memorandum, OMB Circular A-124, the Federal Acquisition Regulation, or agency regulations, policies, or practices. The agencies will also provide the Council with data on the disposition and utilization of inventions resulting from their programs and on their use of patent rights clauses, exceptions and waiver authorities.

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